

REMARKS

In response to the Office Action mailed July 27, 2006, please consider the following remarks:

1. Status of Claims

In applicants' Preliminary Amendment filed November 17, 2003, claims 1-26 were canceled without prejudice, claim 27 was amended, claim 28 was retained as originally filed, and claims 29-39 were introduced. Claims 29-39 are canceled herein, and claims 40-41 are added. Thus, claims 40-41 are currently under examination. No new matter has been added as a result of these amendments. Newly added claim 40 is the same as claim 27 but yet includes the limitations of claims 29-33. Newly added claim 41 is the same as claim 28 but yet includes the limitations of claims 34-39.

2. Definiteness of Claims

Claims 27-39 were rejected as purportedly being indefinite. The claims have been canceled. Applicants believe that the rejection does not apply to newly added claims 40-41.

3. Biological Deposit and Enablement of the Claims

In accordance with the deposits as described in applicants' Preliminary Amendment, PTA-3980 (deposited with the American Type Culture Collection, 10801 University Boulevard, Manassas, Virginia 20110 under the terms of the Budapest Treaty on December 4, 2001) produces monoclonal antibody 120A-270, the cell PTA-2809 produces monoclonal antibody 115B-151, the cell line PTA-2806 produces monoclonal antibody 117-289, the cell line PTA-2808 produces monoclonal antibody 103-350, the cell line PTA-2807 produces monoclonal antibody 108-394, and the cell line PTA-2810 produces monoclonal antibody 115B-303. The cell lines producing the last five antibodies noted were deposited with the American Type Culture Collection, 10801 University Boulevard, Manassas, Virginia 20110 under the terms of the Budapest Treaty on December 13, 2000 and were accorded the ATCC accession numbers noted above. **All restrictions imposed by the depositor on the availability to the public**

of the deposited material will be irrevocably removed upon the granting of a patent.

Accordingly, applicants believe that the biological deposit requirements have been fulfilled and the enablement rejection should be withdrawn.

4. Written Description of the Claims

Claims 27-39 were rejected as purportedly lacking written description. The claims have been canceled. Applicants believe that the rejection does not apply to newly added claims 40-41. Applicants also note in this context the broad teaching in the specification disclosure regarding: (a) methods of detection; (b) the nature of conjugates; and (c) the use of the monoclonal antibodies of the invention either alone, or in pairs and trios.

5. Non-Obviousness of the Claims

Claims 27-32 and 34-37 were rejected as purportedly being unpatentable over Montagnier et al. (1991) and Butman et al. (1996). The claims have been canceled. Applicants believe that the rejection does not apply to newly added claims 40-41.

In particular, the Examiner alleges that Butman et al. provides HIV-1/2-specific antigen capture assays that employ a cross-reactive core antibody, and that it would have been obvious to combine the teachings of Butman et al. and Montagnier et al. in a single assay. However, Butman et al. do not teach or suggest use of the six monoclonal antibodies recited in the above-amended claims for use in diagnostic assays. As the Examiner is aware, each monoclonal antibody has its own unique properties and a tremendous amount of labor is required in order to find even one monoclonal antibody which may be utilized in an assay. Thus, not only does Butman et al. not suggest the claimed invention, one of ordinary skill in the art certainly would not have been motivated to have substituted the monoclonal antibodies of the claimed invention for those recited in the Butman et al. document. Montagnier fails to cure the deficiency of Butman et al. Accordingly, and for other reasons, the skilled artisan would not be able to combine the teachings of these references with any reasonable expectation of success.

6. Non-statutory Double Patenting

Given that the double patenting rejections contained in the Office Action are provisional, applicants will address the rejection (e.g., by filing a Terminal Disclaimer) when it is indicated that patentable subject matter has been obtained.

7. Other Matters

Applicants co-file herewith a Supplemental Information Disclosure statement and request that the Examiner indicate that the information referred to therein has been considered by initialing the appropriate box on the 1449 form.

CONCLUSION

The application is considered in good and proper form for allowance. Applicants believe they have addressed all the rejections in the Office communication. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject patent application, the Examiner is invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,
Lou, et al.



Audrey L. Bartnicki
Registration No. 40,499
Attorney for Applicants

ABBOTT LABORATORIES
Customer No.: 23492
Telephone: (847) 938-3440
Facsimile: (847) 938-7827